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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/712,578	11/13/2000	Daniel M. Esquibel	10992521-1	9741
22879	7590	03/29/2004	EXAMINER	
HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			YODER III, CHRISS S	
			ART UNIT	PAPER NUMBER
			2612	5

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/712,578

Applicant(s)

ESQUIBEL ET AL.

Examiner

Chriss S. Yoder, III

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 13-18 and 21 is/are rejected.
- 7) ☒ Claim(s) 2-12, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 13, 15-16, 18, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Ueno et al. (US Patent # 5,479,206).
2. In regard to claim 1, note Ueno discloses the use of an imaging device that retrieves previous settings in the imaging device (column 16, lines 35-40), determining a new state of settings (column 16, lines 50-55), combining the previous and new states to form an optimal state (column 16, lines 35-55; the combination of the two is by the user setting new values according to the previous values), and configuring the imaging device according to the optimal state (column 16, lines 62-67).
3. In regard to claim 13, note Ueno discloses that the new state is selected from a control on the imaging device (column 16, lines 51-55; and column 13, lines 62-67; the user can set the values at the camera).
4. In regard to claim 15, note Ueno discloses that the new state is selected by reading values from a remote computer (column 16, lines 51-67).
5. In regard to claim 16, note Ueno discloses that the new state of settings are selected by presenting a plurality of sample images on a remote computer generated based on variations of settings (column 21, lines 16-19; figure 16: 125; the preview

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image is adjusted using the scroll bars 125R and 125B, with each adjustment, an new image is displayed and allows user selection of new settings), determining which sample the user selected (column 21, lines 16-19), and selecting user settings corresponding to the user selected images (column 16, lines 51-67).

6. In regard to claim 18, this is as apparatus claim, corresponding to the method of claim 1. Therefore, claim 18 has been analyzed and rejected as previously discussed with respect claims 1.

7. In regard to claim 21, note Ueno discloses a means for selecting a mode (column 5, lines 30-45), a means for adjusting a plurality of settings (column 4, lines 56-60), and a means for tracking user preferences (column 12, line 65 – column 13, line 5; the user control values are stored in memory).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ueno et al. (US Patent # 5,479,206).

9. In regard to claim 14, note Ueno discloses that the new state of settings are selected by presenting a plurality of sample images generated based on variations of settings (column 21, lines 16-19; figure 16: 125; the preview image is adjusted using the

scroll bars 125R and 125B, with each adjustment, an new image is displayed and allows user selection of new settings), determining which sample the user selected (column 21, lines 16-19), and selecting user settings corresponding to the user selected images (column 16, lines 51-67). Therefore, it can be seen that the Ueno device fails to include the presentation of sample images in the imaging device. Ueno disclose the use of user selection of settings in the imaging device (column 13, lines 62-67). Although, it Ueno does not explicitly disclose that the presentation of sample images is in the imaging device, it is implied that this is include in the imaging device in order to reduce the need to connect the imaging device to a remote computer and to increase the portability of the imaging device. Therefore, it would have been obvious to one of ordinary skill in the art to modify the Ueno device to include the presentation of sample images in the imaging device in order to reduce the need to connect the imaging device to a remote computer and to increase the portability of the imaging device.

10. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ueno et al. (US Patent # 5,479,206) in view of Squilla et al. (US Patent # 6,623,528).

11. In regard to claim 17, note Ueno discloses that the new state of settings are selected by presenting a plurality of sample images generated based on variations of settings (column 21, lines 16-19; figure 16: 125; the preview image is adjusted using the scroll bars 125R and 125B, with each adjustment, an new image is displayed and allows user selection of new settings), determining which sample the user selected (column 21, lines 16-19), and selecting user settings corresponding to the user selected

images (column 16, lines 51-67). Therefore, it can be seen that the presentation of images is in the form of printed sample images. Squilla discloses the use of a printed sheet of sample images (column 1, lines 59-63; and figure 3). Squilla teaches that the use of a printed sheet of sample images is preferred in order for the user to have a physical copy of the images with a checkbox to easily select each image. Therefore, it would have been obvious to one of ordinary skill in the art to modify the Ueno device to include the presentation of images in the form of printed sample images in order to simplify the user selection of images and allow the user to view different possibilities at once.

Allowable Subject Matter

12. Claims 2-12 and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. As for claims 2, the prior art does not teach or fairly suggest the use of an imaging device that combines the previous and new settings using a point representation in a settings space and can add the new setting as a point in a cluster of points that are previous settings and calculate the optimal setting based on the new point and the cluster of points.

14. As for claims 10, the prior art does not teach or fairly suggest the use of an imaging device that uses a state space to define a plurality of settings and combining the previous state with a new state and where the optimal state is determined using a location between the previous and new state.

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15. As for claims 19, the prior art does not teach or fairly suggest the use of an imaging device that combines the previous and new settings using a point representation in a settings space and can add the new setting as a point in a cluster of points that are previous settings and calculate the optimal setting based on the new point and the cluster of points.

16. As for claims 20, the prior art does not teach or fairly suggest the use of an imaging device that uses a state space to define a plurality of settings and combining the previous state with a new state and where the optimal state is determined using a location between the previous and new state.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US006160960A: note the use of an imaging device that has a controller for setting user settings.

US005631699A: note the use of an imaging device with different modes.

US006005613A: note the use of an imaging device with remote controlling features.

US005883666A: note the use of an imaging device with multiple photographing modes.

US005774746A: note the use of a camera with learning functions to track user preferences.

US005359385A: note the use of a camera with learning functions to track user preferences.

US005159364A: note the use of a camera that memorizes user settings.

US004616916: note the use of a camera with multiple modes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chriss S. Yoder, III whose telephone number is (703) 305-0344. The examiner can normally be reached on M-F: 8 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy Garber, can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-HELP.

CSY
March 22, 2004


VU LE
PRIMARY EXAMINER